

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

BANC DE BINARY LTD. et al.,

Defendants.

2:13-cv-00993-RCJ-VCF

**ORDER**

This case arises out of the alleged trading of unregistered securities. The Court has entered a preliminary injunction, ruling that although they are not in fact options, the “binary options” Defendant is alleged to sell are “securities” under the Securities Exchange Act of 1934, as amended. Plaintiff has moved for summary judgment against three Defendants and to seal certain portions of that motion and supporting documents. Those three Defendants have filed a non-opposition but have argued in a footnote that they remain “free to controvert facts that would have been deemed admitted if the parties were proceeding by stipulation.” In reply, Plaintiff has amended its proposed order to include additional declarations directed to certain issues. The Court will grant the motion for summary judgment (and the motion to seal) but will not include the additional declarations requested by Plaintiff in the amended proposed order attached to the reply brief. The parties may argue the effect of the grant of the present motion in subsequent proceedings. Defendants in agreeing to the grant of the present motion have taken their chances that certain arguments will later be determined to have been waived. The Court need not address

1 those issues now. It is enough that Defendants have failed to oppose the present motion and have  
2 in fact explicitly agreed to its grant.

3 **CONCLUSION**

4 IT IS HEREBY ORDERED that the Motion for Summary Judgment (ECF Nos. 79, 80) is  
5 GRANTED.

6 IT IS FURTHER ORDERED that the Motion to Seal (ECF No. 78) is GRANTED. In  
7 accordance with the Stipulated Protective Order (ECF No. 69), the following sealed versions of  
8 the relevant documents shall remain under seal until such time as the Court may enter an order to  
9 unseal them or they are otherwise unsealed under the Local Rules:

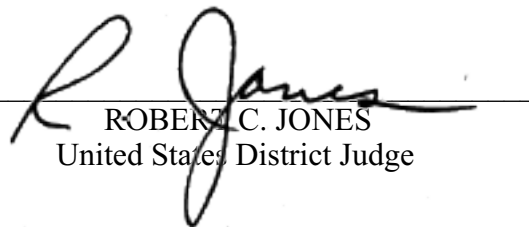
10 1. the SEC's Memorandum of Points and Authorities in Support of its Motion for  
11 Summary Judgment (ECF No. 80-1);

12 2. the supporting declaration of John. W. Berry (ECF No. 80-3); and

13 3. the SEC's Statement of Uncontroverted Facts under Fed. R. Civ. P. 56(c)(1) and Local  
14 Rule 56-1 (ECF No. 80-2).

15 IT IS SO ORDERED.

16 Dated this 28th day of October, 2014.

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19 ROBERT C. JONES  
20 United States District Judge  
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